

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

TODD M. JACK,

Plaintiff,

v.

Civil Action No. 2:10cv63

**STATE OF WEST VIRGINIA and
JO ANN OVERINGTON, Berkeley County Magistrate,**

Defendants.

ORDER

On July 27, 2010, Magistrate Judge John S. Kaull filed his Report and Recommendation ("R&R") (Doc. 18), wherein the plaintiff was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within fourteen (14) days after being served with a copy of the R&R. After being granted an extension, plaintiff filed his objections on September 7, 2010 (Doc. 24).

Upon examination of the report from the Magistrate Judge, it appears to this Court that the issues raised by the plaintiff in his civil rights complaint, wherein plaintiff makes allegations against the defendants surrounding his arrest and detention, were thoroughly considered by Magistrate Judge Kaull in his R&R. Upon review of the plaintiff's objections, which appear to make a blanket objection to the R&R, this Court finds that the plaintiff has not raised any issues that were not already thoroughly considered and addressed by the Magistrate Judge in his R&R. This Court finds, as more fully set forth in the R&R, that judicial immunity bars this action against Magistrate Judge Overington, and that sovereign immunity bars this action against the State of West Virginia. Defendant's objections are overruled. This Court, upon an independent *de novo* consideration of all matters now

before it, is of the opinion that the R&R accurately reflects the law applicable to this case. Therefore, it is

ORDERED that Magistrate Judge Kaull's R&R (Doc. 18) be, and the same hereby is, **ADOPTED**. Accordingly, it is


ORDERED that the plaintiff's Complaint (Doc. 1) be, and the same hereby is, **DISMISSED WITH PREJUDICE**, and that this civil action be **STRICKEN** from the docket of the Court. It is further

ORDERED that the Clerk shall enter judgment for the defendants. It is further

ORDERED that, if plaintiff should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court of Appeals for the Fourth Circuit.

The Clerk of the Court is directed to transmit a copy of this Order to all parties appearing herein.

DATED: January 28, 2011.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE